

**Notice of Allowability**

Application No.

10/626,445

Examiner

Daniel Kolker

Applicant(s)

LOVENBERG ET AL.

Art Unit

1649

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/28/05.
2. ☒ The allowed claim(s) is/are 1-4,6,7,9,10,13 and 16.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance             |
|   | 9. <input type="checkbox"/> Other _____   |

  
SHARON TURNER, PH.D.  
PRIMARY EXAMINER  
11-9-05

## EXAMINER'S AMENDMENT

### *Priority*

1. For the reasons set forth at page 2 of the previous office action, the priority date for all pending claims is 22 February 2001. Applicant did not traverse this statement as no intervening art was applied.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Scott Scioli on 8 November 2005.

### **In the claims:**

3. Replace claim 1 with the following:

An isolated and purified nucleic acid molecule that encodes a murine histamine H4 receptor protein, said protein comprising amino acids 1 to 391 of SEQ ID NO:8, or the full-length complement of said nucleic acid molecule.

4. Replace claim 2 with the following:

The nucleic acid molecule of claim 1 wherein the nucleic acid molecule is RNA.

5. Replace claim 3 with the following:

The nucleic acid molecule of claim 1 wherein the nucleic acid molecule is DNA.

6. Replace claim 6 with the following:

An expression vector for expression of a murine histamine H4 receptor in a recombinant host cell, wherein said vector contains a nucleic acid sequence encoding a murine histamine H4 receptor protein having an amino acid sequence of SEQ ID NO:8.

7. Replace claim 7 with the following:

The expression vector of claim 6, wherein the expression vector contains a nucleic acid molecule having the nucleotide sequence of SEQ ID NO:5, and encodes a murine histamine H4 receptor protein.

8. Replace claim 10 with the following:

Art Unit: 1649

The isolated cell of claim 9, wherein said nucleic acid molecule has the nucleotide sequence of SEQ ID NO:5.

9. Cancel claim 12

10. Replace claim 13 with the following:

An isolated histamine H4 receptor having the amino acid sequence of SEQ ID NO:8.

11. Replace claim 16 with the following:

A process for expression of murine histamine H4 receptor protein in a recombinant cell, comprising:

(a) transferring the expression vector of claim 6 into isolated cells; and

(b) culturing the cells of step (a) under conditions which allow expression of the murine histamine H4 receptor protein from the expression vector.

12. The following is an examiner's statement of reasons for allowance:

The examiner notes that the transitional phrase "having" has been interpreted as open claim language.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

13. Claims 1 – 4, 6 – 7, 9 – 10, 13, and 16 are allowed.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Kolker whose telephone number is (571) 272-3181. The examiner can normally be reached on Mon - Fri 8:30AM - 5:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on (571) 272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1649

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel E. Kolker, Ph.D.

November 8, 2005

  
SHARON TURNER, PH.D.  
PRIMARY EXAMINER  
11-8-05